

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MERCEDES AGRAMONTE,

ORDER

08-CV-2971 (NGG)

Plaintiff,

-against-

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiff Mercedes Agramonte ("Plaintiff") brings this action against Defendant Michael Astrue, Commissioner of the Social Security Administration ("Commissioner"), under 42 U.S.C. § 405(g), seeking review and reversal of a final agency determination denying her April 11, 2002 application for Disability Insurance Benefits and Supplemental Security Income. (See Compl. (Docket Entry # 1).) The Commissioner submitted an unopposed motion to reverse and remand for further administrative proceedings. (See Def. Mem. (Docket Entry #12).)

I. DISCUSSION

Plaintiff filed her application for Disability Insurance Benefits on April 11, 2002. (Id. at 1.) The Administrative Law Judge ("ALJ") found that she was not disabled because she could perform her past work as a factory worker; the Appeals Council denied her request for review on May 6, 2005. (Id. at 2.) Plaintiff then filed a pro se action in this court. (Id. at 2; see Agramonte v. Barnhart, 05-CV-2936 (SLT)). By Stipulation and Order dated April 6, 2006, Judge Sandra L. Townes remanded the case pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further administrative proceedings. (Def. Mem. 2.)

Upon remand, the ALJ denied Plaintiff's claim, finding that she was able to perform her past relevant work as an ornament maker. (Id. at 2.) One June 7, 2008, the Appeals Council declined to assume jurisdiction over Plaintiff's case, making the ALJ's decision the Commissioner's final decision. (Id. at 2.) Plaintiff filed this action on July 17, 2008, seeking review and reversal of the Commissioner's decision. (Compl. at 1.) In a boiler-plate complaint, Plaintiff alleges that the ALJ's decision was erroneous, not supported by substantial evidence on the record, and contrary to the law. (Id. at 2.) She seeks an order modifying the Commissioner's decision and granting disability and supplemental security income benefits, or, in the alternative, an order remanding her case for reconsideration. (Id. at 3.)

On January 22, 2009, the Commissioner sent Plaintiff a Stipulation and Order of Remand, offering Plaintiff to remand her case for further administrative proceedings; Plaintiff never responded.¹ (See Ltr. dated Aug. 9, 2010 (Docket Entry # 13).) On March 9, 2009, the Commissioner submitted a motion to reverse and remand the ALJ's decision for further administrative proceedings due to legal error. (Def. Mem. at 1.) Specifically, the Commissioner asserts that "the ALJ did not adequately evaluate [P]laintiff's impairments and did not adequately evaluate opinions provided by medical sources." (Id. at 19.)

II. CONCLUSION

For the reasons stated in the Commissioner's Memorandum of Law, the Commissioner's Motion for remand for further administrative proceedings is GRANTED.

SO ORDERED.

Dated: Brooklyn, New York
August 10, 2010

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge

¹ The Commissioner served Plaintiff with a copy of the Administrative Transcript on December 5, 2008. (See Ltr. dated Dec. 12, 2008 (Docket Entry # 8).)